

RULE ~~613~~

Leave of Absence, Resignation, Sick Leave and Vacations

Section 1. Leave of Absence.

a. Procedures and Limitations

(1). Leave of Absence for Regular Employees with One Year or more of Service

A request for a Leave of Absence (LOA), not to exceed twelve consecutive months, together with the reason(s) therefore and the period of leave desired, and a full statement as to the desire or intention of the employee to return to the Civil Service, will be made in writing by the employee on the forms prescribed. Employees qualifying for FMLA leave must utilize all available FMLA leave before being eligible to receive an additional leave of absence. The Department Head shall recommend disposition~~grant or denial~~ of the request in writing to the Director. (Amended 8/25/09)

(2). Leave of Absence for Regular Employees with less than One Year of Service

A request for a Leave of Absence, not to exceed three (3) months, together with the reason(s) therefore and the period of leave desired, and a full statement as to the desire or intention of the employee to return to the Civil Service, will be made in writing by the employee on the forms prescribed. The Department Head shall recommend disposition~~in writing grant or denial~~ of the request in writing to the Director. (Added 8/25/09)

(3). When the Leave of Absence is necessary because of sudden serious health condition or injury, the request may be made by the Department Head without securing the signature of the employee and forwarded to the City Manager or designee. (Amended 8/25/09)

(4). The employee shall submit all medical documentation upon request. - The request for Leave of Absence will not be effective until approved by the City Manager or designee. -In the case of a leave requested as an exception to length-in-service requirement policy, the request must be accompanied by such proof as the City Manager or designee may require. (Amended 8/25/09)

 (5). A Leave of Absence may not be granted or extended ~~on or after February 7, 2006~~, for a combined period in excess of 24 months within the most~~a~~ recent 7 years of an employee's tenure with the City. This subsection does not include authorized leave taken in accordance with the Family & Medical Leave Act, and shall not apply to the Leave of Absence granted for military service or upon acceptance of a position in the exempt class of the City's service for such time as the service continues. (Amended 11/13/84, 7/13/85, 8/31/04, 2/07/06, 8/21/07, 8/25/09)

Added: Portion from (b) to Section 1 (a)(1)

Added: "disposition" and "in writing" and deleted "grant or denial"

Added: "the most" and deleted "a"

~~b. Family and Medical Leave Act of 1993~~

~~All employees may take leave in accordance with the Family and Medical Leave Act (FMLA) of 1993, as may be amended and no provision of this Rule shall be construed to conflict with such Act. Employees qualifying for FMLA leave must utilize all available FMLA leave before being eligible to receive an additional leave of absence under section 1.a. All FMLA leave will run during a "rolling" 12-month period calculated forward. Such FMLA leave shall not be included within the twelve consecutive months of leave that an employee may be granted under section 1.a. (Passed 2/07/06) (Amended 8/21/07, 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Governed by Federal Law. Administrative policy created.

be. Requesting Leave

Except as otherwise provided by law, no employee will be granted a leave of absence until the employee has been in the Civil Service for at least one year immediately preceding the date of leave except in case of military service, urgent necessity, as allowed in Section 1 a. (2) or in accordance with federal or state law, as determined and approved by the City Manager or designee. -In these cases, an application for a leave will be accompanied by such proof as the City Manager may require, along with a recommendation from the Department Head. -(Amended 8/31/04, 2/07/06, 8/21/07, 8/25/09)

To obtain a leave of absence based on an employee's own serious health condition, the employee must provide the Department Head such forms as may be required by the Human Resources Director, completed by the employee's health care provider no later than the fifteenth calendar day of absence. The health care provider should indicate the date on which the serious health condition commenced, the probable duration of the condition, appropriate medical facts within the knowledge of the employee's health care provider regarding the condition, and that the employee is unable to perform the functions of his position because of the condition. -The employee will be required to provide periodic updates from the employee's health care provider on the serious health condition, as well as a fitness-for-duty certification when the employee seeks to be reinstated. - If, for medical reasons, the employee is unable to deliver any documentation required under this paragraph, the employee may have a friend, family member or health care provider deliver them. -(Passed 2/07/06) (Amended 8/25/09)

To obtain a leave of absence so that an employee may care for a spouse, designated household member, child or parent of either with a serious health condition, the employee must provide his Department Head with the required forms completed by that individual's health care provider no later than the fifteenth calendar day of absence. -The health care provider should indicate that the employee is needed to care for the individual and estimate the amount of time involved. -The employee may be required to provide periodic updates on the relevant individual's condition and on the employee's continued need to care for that person. (Passed 2/07/06) (Amended 8/25/09)

To obtain leave based on the birth or the placement of a child for adoption or foster care with the employee or for planned medical treatment and such leave is foreseeable, an employee must notify the Department Head not less than 30 days before the employee plans to commence leave. -If it is not possible to give 30 days' notice, the employee must give as much advance notice as is practicable. (Passed 2/07/06) (Amended 08/21/07)

Renumbered to b.

cd. Benefits During Leave

The City requires any employee taking leave to first utilize accrued but unused sick and vacation leave during the leave of absence provided that it is not used to receive more compensation than the employee would receive were the employee working.

Employees on unpaid leave of absence are not entitled to holiday pay for those holidays falling during the leave. -Additionally, benefits such as vacation time and sick leave do not accrue during an unpaid leave of absence. -A break in seniority will occur when an employee is on an unpaid leave of absence for thirty or more consecutive days.

During the portion of any paid leave of absence in which the employee is using accrued vacation or sick leave, the City will maintain its share of an employee's coverage under any group health or insurance plan on the same conditions as if the employee was not on leave. During any unpaid leave of absence, an employee must pay the cost of any insurance coverage that the employee has elected to make under the City's benefit program. The employee must make arrangements with the [Human Resources Department](#)~~Office of Management & Budget~~, Insurance & Benefits [section](#) to make any such payments.

Added: “Human Resources Department”.

Deleted: “Office of Management & Budget”.

Added: “section” after Insurance & Benefits.

Renumbered to c.

d. When Leave of Absence ~~s~~ Shall not be Granted

No leave of absence, with or without pay, will be approved or granted when it appears to the City Manager that it is requested for the purpose of enabling the employment of a temporary employee to the same position; or because of political influence, or for cause contrary to the good of the Service. (Amended 8/31/04, 2/07/06 and 8/21/07)

Corrected to show lower case “s” instead of capital “S”

Renumbered to d.

e. Notices regarding Designated Household Members

Any employee may designate one person who resides in the employee's household, for whom the provisions in this Rule relating to a designated household member shall apply. - The employee shall submit the name of such household member to the Human Resources Department. -In the event that the household member moves from the employee's household or the employee desires to change the designation of his household member, the employee shall immediately file a notice of termination of designation of household member with the Human Resources Department. -The Human Resources Director shall develop appropriate forms for use by employees under this section. -(Passed 2/07/06) (Amended 8/21/07, 8/25/09)

Renumbered to e.

f. Return after Leave

An employee must present an acceptable fitness-for-duty certification upon return from leave which was the result of the employee's own serious health condition. - Any employee returning to work after a leave of absence for serious health condition or disability of 12 weeks or more may be required to take and pass a physical examination performed by a physician acceptable to the Director of Human Resources or designee.

If the employee has not returned to work at the expiration of the leave of absence, the employee will be considered to have voluntarily resigned his employment not in good standing. (Amended 2/07/06, 8/25/09)

Renumbered to f.

Section 2. Sick Leave

a. Accrual

All regular and probationary employees who are regularly scheduled to work a minimum of forty (40) hours per week are entitled to an annual sick leave, with full pay in the amount of 120.0 hours per year or 4.62 hours per pay period. - (Amended 7/09/85, 8/11/87, 6/28/88, 1/30/90, 2/07/06, 8/25/09)

Part-time employees who are regularly scheduled to work a minimum of twenty (20) hours per week shall accrue sick leave at a pro-rated amount of full-time entitlement based on the number of hours that they are scheduled to work. -Employees covered by collective bargaining agreements shall accrue sick leave as provided in the applicable agreement. (Amended 2/07/06, 8/25/09)

Each such employee may accrue unlimited sick leave days. (Added 8/25/09)

b. Sick Leave Verification

No sick leave of three (3) or more consecutive work days will be granted to any person without a certificate verifying that the leave is necessary for medical reasons. Additionally, no sick leave the day before, the day of, or the day after a City designated holiday will be granted to any person without a certificate. Such certificate must be from a health care provider, and verify that the leave is necessary for medical reasons. (Amended 7/09/85, 2/14/89, 9/17/96 and 2/07/06)

c. -Emergency Leave

Emergency Leave may be granted under the sick leave clause for the following reasons:

(1) -A quarantine established by the Health Authority. (Amended 8/25/09)

(2) -Death of mother, father, child, grandchild, brother or sister, or spouse or designated household member, or their child, or parent. - A maximum of five (5) days of sick leave may be granted for this purpose per event. -Employees shall provide written documentation of the funeral or death. (Amended 8/25/09)

(3) Death of other relatives or other person with whom the employee has a significant familial relationship. -Leave with pay in such cases may be for not more than one (1) day to permit attendance at the funeral.

(4) -Illness of the employee's immediate family.- "Immediate family" is defined as the spouse, designated household member, children, the grandparents, or parents of the employee or of the employee's spouse or designated household member. -No more than two days per pay period may be authorized to permit necessary arrangements for care unless the employee takes leave under the Family and Medical Leave Act. (Amended 3/31/87, 8/11/87, 6/28/88, 2/14/89, 8/5/93 for employees not covered by the Collective Bargaining Agreement, 2/4/94 for employees covered by the Collective Bargaining Agreement, 2/7/06) (Amended 8/25/09)

d. -Application for Sick Leave or Emergency Leave

Application for Sick Leave or Emergency Leave will be made to the employee's Department Head. When an application for such leave is denied by the Department Head, the applicant may appeal to the City Manager who will investigate and uphold or reverse the denial, consistent with provisions of this Rule. -(Amended 2/07/06 and 8/21/07)

~~e. -Duties of Department Heads; Authority to Investigate Sick Leave Use~~

~~The Department Head granting sick or Emergency Leave will immediately report the leave and subsequently, the individual's return, to the Human Resources Director. The Department Head or the Human Resources Director may at any time inquire or investigate into the use of sick leave or Emergency Leave and require medical certification for all subsequent absences, or take other~~

~~appropriate action consistent with the Charter or these Rules. Reasons to inquire or investigate shall include, but are not limited to, the following:~~

~~(Amended 3/31/87, 9/17/96, 2/07/06 and 8/21/07)~~

~~(1) Habitual use of sick leave in single or partial day increments, without current medical documentation.~~

~~(2) A pattern of using sick leave on a payday, the first work day the employee is scheduled to work after a payday, the day before or after a scheduled day off or using sick leave as soon as it has been accrued.~~

~~(3) Using 40 or more hours of unplanned sick leave during a quarter of a calendar year, for two (2) or more consecutive quarters, without current medical documentation. (Added 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative policy created.

ef. Use of Sick Leave for Personal Business

1. -Eligibility

A regular employee in the City Service is entitled to use part of his sick leave for personal business as follows: (Amended 8/21/07, 8/25/09)

40 hour per week employees - 32.0 hours per year

Regular part-time employees - 16.0 hours per year

Such personal business leave may be taken either on an hourly, half day, or full day basis. - All personal business leave must be taken by the end of the last pay period beginning within the fiscal year and may not be accrued into subsequent fiscal years. (Amended 1/30/90, 8/09/94, 9/22/98, 2/07/06, 8/25/09)

Renumbered to e.

2. Sick Leave Conversion Incentive

The Human Resources Director is authorized to create a policy that allows regular employees in Civil Service to participate in a Sick Leave Conversion incentive program.

Added language for clarification.

~~A regular employee in the City Service is eligible to participate in the Sick Leave Conversion Incentive program. Two times each year, eligible employees may request up to eight (8.0) hours of sick leave to be converted to additional Sick Leave Personal Day (SPD), if the employee has not missed any scheduled shifts for the periods indicated below:~~

~~———— September 1 — February 28~~

~~———— March 1 — August 31~~

~~The total number of hours earned each fiscal year shall not exceed 16 hours. Absences due to a work related injury, qualified Americans with Disabilities Act (ADA) conditions, or for qualified military leave shall not be counted as absences for purposes of this program. (Added 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

fg. When Paid Leave is Exhausted

The Human Resources Director is authorized to establish a Shared Leave Policy to be used when paid leave is exhausted.

Added language for clarification.

~~A regular employee who has served the required probationary period and suffers a life-threatening medical condition, and who has exhausted all available paid leave, may make a written application to become a shared leave recipient, in the manner prescribed by the shared leave policy and procedures. (Added 9/22/98)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Shared Leave Policy already exists.

Section 3. Vacation Leave

a. Eligibility

All regular employees who are regularly scheduled to work on an average, a minimum of twenty (20) hours per week, who have completed original probation, shall be eligible for vacation allowance as hereinafter set forth. ~~Part-time employees shall accrue vacation leave at a pro-rated amount of full-time entitlement based on the number of hours that they are scheduled to work. Employees covered by collective bargaining agreements shall accrue vacation as provided in the applicable agreement.~~ (Amended 8/11/87, 1/30/90, 2/07/06, 08/21/07, 8/25/09)

b. Accrual

All regular employees in the City Service as defined in (a.) above, shall accrue vacation credit at the following rates per pay period for each pay period completed by the officer or employee in the City Service, calculated from the date of employment of each employee: (Amended 7/09/85, 8/11/87, 1/30/90, 2/07/06, 8/21/07)

For 0 - 5 years of service (~~12 days~~96 hours):

40 hour per week employees - 3.70 hours per biweekly pay period
(Amended 8/11/87, 9/20/88, 2/07/06)

For >5 to 15 years of service (~~17 days~~136 hours):

40 hour per week employees - 5.24 hours per biweekly pay period
(Amended 9/20/88 and 2/07/06)

For >15 or more years of service (~~20 days~~160 hours):

40 hour per week employees - 6.16 hours per biweekly pay period

The maximum accrual for vacation leave is ~~fifty (50) days~~400 hours. (Amended 8/11/87, 2/14/89, 1/30/90, 2/07/06)

c. Such leave may be taken only in hourly increments. ~~-(Amended 7/09/85, 10/08/85, 8/11/87, 2/07/06, 11/2/10)~~

Added number of hours for clarification

Section 4. Vacation Schedules.

a. Scheduling of Vacations

Vacation schedules will be arranged by Department Heads with particular regard to seniority of employees and the needs of the Service, and insofar as reasonable, with regard to the wishes of the employee. The Human Resources Director will be notified of all vacations granted and will have the right to deny such vacation when the employee is not entitled thereto. (Amended 8/21/07)

b. -Forfeiture of Leave Balance Overage

Any vacation leave credit in excess of the maximum accrual authorized in Section 3 of this Rule shall be permanently withdrawn from the employee's vacation balance in the pay period in which the employee's anniversary date of employment falls. An employee who has applied for, but was not granted, vacation leave during the pay period in which the employee's anniversary date fell, shall not forfeit any vacation leave overage provided that the employee is granted leave within 60 days of the employee's anniversary date, subject always to the operational needs of the department. (Amended 2/07/06)

Section 5. Special Leave Based on Operational Necessity

The City Manager may declare special leave time for operational efficiency to close some facilities and or operations for a period of time during the period between the beginning of the last week in December and the end of the first week of January each year, which would require affected employees to use their accrued vacation or personal leave balances. Should an affected employee have no available leave balances, he will be placed on leave without pay. Any affected employee who does not wish to take such leave may request a temporary assignment to another position subject to availability during such time. -Such special leave shall not exceed 5 days each year. (Added 6/1/10)

Section 6. Resignations.

a.- Effect of Resignation

Whenever an employee of the Civil Service resigns, he severs his connection with the City and loses such seniority, including seniority rights following reinstatement from resignation, as he had at the time of his resignation. (Amended 8/21/07, 8/25/09)

b.- Form of Resignation

The notice of resignation must be tendered by the employee in writing through the Department Head to the Human Resources Director not less than ten (10) working days prior to its effective date, excluding holidays. -It is the intent of this provision to require at least two calendar weeks notice of separation. Employees on approved medical leave shall be excluded from this provision. -(Amended 8/21/07, 8/25/09)

c. -Filing of Notice of Resignation

The Department Head shall file the notice of resignation with the Human Resources Department. (Amended 8/21/07, 8/25/09)

d.- Withdrawal of Notice of Resignation

The resigning employee will be permitted to withdraw the notice of resignation within ten (10) working days after its filing with the Human Resources Department or up to the last actual day of work, whichever is sooner. (Amended 11/19/91, 2/07/06, 8/25/09)

~~Section 7. Reinstatement from Military Leave.~~

~~Any employee granted leave of absence for the purpose of entering the armed forces of the United States, including the Coast Guard, or the state service as a member of the Texas National Guard or Texas State Guard or as a member of any reserve components of the armed forces of the United States~~

~~shall be reinstated to his position, if the position has not been abolished and if the employee has all the qualifications requisite to an original appointment to the position, as determined by the Commission, and in accordance with Chapter 613, Texas Government Code. (Amended 2/07/06, 8/25/09)~~

Deleted: Moved to Rule 20 in its entirety as new Section 4.

~~Section 8. Reinstatement Following Resignation.~~

~~a. Requisites for Reinstatement for Public Safety Employees~~

~~Those former uniformed employees requesting reinstatement to the Fire Department must take and pass the medical examination and a physical agility test prior to the reinstatement to actual duty. One additional attempt at the physical agility test will be permitted after a one-month waiting period for persons failing the agility test on the first attempt. Additional attempts will not be offered for any of the other components. Those former uniformed employees requesting reinstatement to the Police Department must take all applicable tests in accordance with Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) standards, to include the medical and psychological examinations, and physical agility test prior to the reinstatement to actual duty. The Chief of Police may require a polygraph examination. (Amended 2/07/06, 8/21/07, 6/1/10)~~

~~b. Reinstatement to Full or Part Time Positions for Former Full Time Employees~~

~~Full-time employees may request be reinstated to full or part-time classifications that they have previously held within 18 months of their date of separation. Such reinstatement will depend upon the availability of a vacant position. (Amended 2/07/06, 11/2/10)~~

~~c. Approval for Placement on Reinstatement List After 18 Months~~

~~The City Manager or designee, may approve a request for reinstatement to full or part-time position in a classification previously held after more than 18 months, but no more than 30 months from the date of separation, in cases where professional training or specialized skill is required, where the person desiring reinstatement has been continuously engaged either in study to benefit himself for his duties, or was in an occupation or position tending to increase his value in the position, or where the person demonstrates that he was unable to apply for reinstatement within the 18-month period due to an extraordinary or unusual hardship and reinstatement will not have a detrimental effect on the City. For the purpose of this section, substantially similar or revised job classifications may be used in determining such reinstatement after 18 months. (Amended 8/11/87, 3/17/92, 9/21/93, 2/07/06, 8/21/07, 8/25/09, 11/2/10)~~

Deleted: Moved to Rule 20 in its entirety as new Section 5.

~~Section 79. False or Fraudulent Application for Leave~~

~~Any employee who falsely or fraudulently requests leave to which he is not entitled or provides false or fraudulent documents suggesting eligibility for any leave provided for in this Rule is subject to appropriate disciplinary action including termination. (Amended 8/21/07)~~

Renumbered to 7.

~~Section 8. Unclassified Employees~~

~~Unless otherwise provided by Council or the provisions in the contract of an employee hired by contract, all employees in the unclassified service shall be governed by the provisions of this Rule with respect to the provisions in Section 6.10 of the Charter regarding the use of leave of absence sick leave, vacation, and the submission of a resignation.~~

Added language for clarification for unclassified employees.

RULE 7+4

Appeal of Efficiency Ratings

Appeal Process:

Subject to the provisions of this section, the employee has the right to appeal any evaluation that is given upon the completion of a Performance Improvement Plan with an~~regularly scheduled~~ overall rating below the equivalent of “Successful” he considers unfair, discriminatory, or otherwise objectionable, ~~except for any~~ A probationary rating not recommending ~~an~~~~that the~~ employee for regular status~~be made permanent in a probationary position is not subject to appeal~~. In the case of such probationary ratings, the employee has the right to place a written statement in his personnel file stating any objections to the rating. Any appeal must be made to the Commission within twenty calendar days after the employee has had final review on the rating with his Department Head, or person designated. For purposes of any appeal under this section, it shall be presumed by the Commission that the Efficiency Rating accurately reflects the performance of the employee. This presumption may be rebutted by the employee by a preponderance of the evidence. On appeal the Commission will consider only the rater's possible prejudice, the rater's failure to take into consideration facts or factors which should have affected the rating, the rater's considering facts or factors which should not have affected the rating. (Amended 8/25/09)

Step 1. One or more members of the Commission shall meet and review the appeal. The employee and the Department Head or representative thereof shall present evidence in support of their respective positions. The hearing may be recessed to allow either side an opportunity to gather additional evidence in the event of a claim of surprise. After the hearing is concluded, no further evidence may be received from either party. In cases where less than the Commission as a whole has conducted the hearing, a report shall be submitted to the Commission setting forth all findings adduced at the hearing.

Step 2. Upon consideration of the matters adduced at the hearing, the Commission will render an order denying the appeal, sustaining the appeal and ordering a re-rating of specific factors, the summary evaluation, or the entire evaluation. It shall also set forth in its order the reasons in support thereof.

Step 3. If a re-rating is ordered by the Commission under Step 2, it must be submitted to the Human Resources Director by the Department Head within 60 days, accompanied by a memorandum signed by the Department Head summarizing the changes made to the original evaluation. The memorandum will explain any failure to re-rate according to the Commission's order. In cases where the Commission's order was not followed, in whole or in part, the Human Resources Director shall place an item on the next Commission agenda, and the Department Head shall appear before the Commission to respond to questions from the Commission. After hearing the Department Head, and any response on the part of the Employee, the Commission may take such appropriate action as it deems necessary to determine the appeal. No new evidence may be received by the Commission under this Step.

Resignation Before Hearing:

If an employee resigns employment with the City of El Paso during the pendency of any appeal under this section, the appeal shall be deemed withdrawn, and no further action shall be taken. (Amended 08/21/07)

Added language for clarification on appeal process.

RULE ~~8~~¹⁵

Suspension, Reduction, Discharge

Section 1. Causes of Suspension, Reduction or Discharge.

The following may constitute causes for discharge, suspension or reduction of regular employees: That an officer or employee in the Civil Service: (Amended 7/31/07)

- a. Has been convicted of a felony, or a misdemeanor involving moral turpitude; or
- b. Has willfully, ~~wantonly~~, or through culpable negligence been guilty of brutality or cruelty to an inmate or prisoner of a city institution or to a person in custody, provided the act committed was not necessarily or lawfully done in self defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody; or **Deleted “wantonly”**
- c. Has been under the influence of intoxicants or drugs or the use thereof while on duty; or
- d. Has contracted a disease or has some physical or mental ailment or defect which makes him unfit for Civil Service. (This subsection may not be availed in any case to effect the discharge of an employee where such employee is entitled to and intends in due course to seek leave of absence for the purpose of procuring proper treatment for such disease if it is curable within the maximum of 12 month time allowed hereunder for leave of absence. Action hereunder will not in anywise affect the right of one suffering physical injury or disability arising from course of employment in the Civil Service to retirement or disability payments under any existing retirement or disability payments, or to participate in any retirement or disability plan adopted by the City); or (Amended 11/13/84, 8/25/09)
- e. Is wantonly offensive in his conduct or language towards the public, an official, the head of any department, or his fellow employees; or (Amended 8/25/09) **Added “an official”**
- f. Is consistently inefficient in the performance of the duties of his position so that his general average of efficiency is below the minimum standards established, and the facts on which such general average is based are true and justify such average; or (Amended 8/25/09)
- g. Is negligent in ~~the~~ care or ~~the intentional~~ misuse of City property or (Amended 7/31/07) **Deleted “the” and “the intentional”**
- h. Has an unexcused absence from duty for a period of three or more successive days; or
- i. Has used or threatened to use or attempted to use personal or political influence in securing promotion, leave of absence, transfer, change of grade, pay, or character of work; or
- j. Has induced, or has attempted to induce an officer or employee in the service of the City to commit an unlawful act or to act in violation of any lawful departmental or official regulation or order; or has taken any fee, gift, or other valuable thing in the course of his work or in connection with it, for his personal use from any person, when such fee, gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than accorded other persons; or (Amended 8/25/09)
- k. Has induced or attempted to induce any person, firm or corporation doing business with the City to give employment to any relative of the City officer or employee, or has induced or attempted to induce any such person, firm or corporation to show any material favor or consideration of any kind to the City officer or employee or any relative of the City officer or employee, when the officer or employee holds a position in a department having direct contact with such person, firm or corporation; or
- l. After the date of the adoption of these Rules, engaging in the following political activity is prohibited and the employee will be subject to disciplinary action for the following conduct:

- (1) actively engaging in the management or organizational committee of any municipal campaign;
- (2) acting as a worker at the polls in a municipal election;
- (3) participating in the solicitation of money in a municipal election;
- (4) contributing money or other valuables for any political purpose in connection with municipal elections;
- (5) while on duty, engaging in the distribution of any political material;
- (6) while on duty, promoting or engaging in the candidacy of any candidate or political party during any election period, whether it be a partisan or municipal election;
- (7) using city time or resources for any political purpose;
- (8) while wearing a city uniform, engaging in any political activity;
- (9) attempting to influence the vote or political action of any city employee whether superior or subordinate, while on duty;
- (10) attempting to influence, through threat or coercion, the vote or political action of any city employee whether superior or subordinate, while on or off duty;
- (11) recruiting or encouraging other city employees to support or participate in municipal elections;
- (12) seeking political office without first resigning as provided in Rule ~~1017~~;
- (13) accepting political paraphernalia while on duty or on city property;
- (14) using your city title or position in an endorsement for any political election.

Anything not prohibited above is permitted, to include the following:

- (1) engaging in the organizational efforts of partisan elections;
- (2) participating in partisan election steering committees;
- (3) demonstrating their political preference in partisan or municipal elections by displaying political paraphernalia representative of their political preference, so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his city position or title; (Amended 8/25/09)
- (4) participating in the dialogue of community forums in any election;
- (5) endorsing the candidate of their choice in any elections so long as the employee is off duty, not in uniform, and not in a city facility, and does not use his city position or title; (Amended 8/25/09)
- (6) participating in all matters related to their candidate's election in partisan elections;
- (7) joining political clubs and organizations;
- (8) participating in all partisan activities related to the election process.

(Amended 05/07/02)

- m. Violates the City's Ethics Ordinance; or (Added 7/31/07)
- n. Refusal to follow the lawful order of a superior or supervisor; or (Added 7/31/07)
- o. Subjecting a fellow employee or subordinate to unlawful intimidation, harassment or retaliation; or (Added 7/31/07)
- p.- For just cause. (Added 7/21/07)

Section 2. Disciplinary Notice.

Disciplinary actions in the nature of a discharge, involuntary reduction, or suspension taken against a regular employee, other than at the end of a probationary period, will not become effective until the Department Head has first served upon such employee a written notice of discipline. The notice must contain one or more statutory reasons or grounds for discipline, together with such specifications of fact as will enable the employee to make an explanation and place him fairly upon his defense. The specifications of fact shall be of sufficient specificity so as to preclude the possibility of disciplinary action for the same act or omission in the future. Nothing contained herein shall prohibit the Department Head from using an employee's prior acts or omissions resulting in discipline in determining future disciplinary action against the employee. An employee may be disciplined for other acts or omissions not specified in the notice even if such acts arise from the same incident or event. A Department Head may not unilaterally reduce the discipline given once notice of discipline has been provided to the employee, without the employee's consent. A copy of such notice of discipline, together with the employee's explanation, if any, will be filed with the Human Resources Director. (Amended 06/24/03, 7/31/07, 8/25/09)

Section 3. Notice of Proposed Disciplinary Action, Procedure and Limitation of Action.

a. When disciplinary action in the nature of a five (5) day suspension or greater, a reduction, or discharge is being contemplated by the Department Head, the employee must be served with a notice of proposed disciplinary action which shall conform with the notice requirements set forth in Section 2 and Section 3 (b) of this Rule. In addition to the notice of proposed disciplinary action, the employee shall be furnished with the written materials and tangible things in the possession of the Department Head that form the factual and evidentiary basis for the proposed disciplinary action. No matter may be withheld from the employee that is inconsistent with the theory of discipline or that could tend to mitigate the contemplated sanction. (Amended 8/25/09)

b. Within ten (10) working days of receipt of the notice of proposed disciplinary action, the employee may request a conference with the Department Head. Within five (5) working days of receipt of the employee's response, the Department Head shall meet with the employee, provided further that this period may be extended with the mutual consent of the Department Head and the employee. No witnesses may be called to testify as part of the employee's explanation or response. During the conference, the employee, their representative, and the Department Head shall engage in discussions with a view toward reaching a consensus and agreement relative to the proposed disciplinary action. No part of the discussions that take place during the conference may be offered into evidence at any subsequent hearing, except for the limited purpose of determining compliance or non-compliance with the provisions of this Rule as provided in paragraph "e" and for impeachment purposes. In the event such a consensus is reached, the execution by the employee of documents finalizing the settlement agreement shall constitute a waiver of the employee's right to appeal to the Commission, and the employee shall be so advised in plain language. (Amended 09/09/03, 01/06/04, 8/25/09)

c. Respecting discharge, those departments currently using a pre-termination hearing shall not be required to have a conference as contemplated hereinabove provided that the time between notification and hearing shall be at least five (5) days and further provided that there shall be no change to current practices regarding violations of applicable federal laws. (Amended 09/09/03, 01/06/04, 8/25/09)

d. The employee is entitled to have a representative of their choice assist them in the preparation and presentation of their response, provided further that in the event the representative is an employee of the City, he shall use vacation leave or personal days for such time as may be required for the representative to attend the conference. If the employee does not have any accrued vacation or personal days, the employee will be placed on unpaid administrative leave for such time as may be required for

the representative to attend the conference. The employee must provide his Department Head with two days notice of the request to take the above leave. The Department Head may disapprove the request if the leave significantly interferes with the operational needs of the department. (Amended 09/09/03, 01/06/04, 8/25/09)

e. Disciplinary action must be taken against an employee within 80 working days after the occurrence of the incident giving rise to the discipline or from the date that the Department Head knew or should have known that disciplinary action is appropriate, whichever is later, provided however that this period of limitation shall be tolled if an investigation is being conducted by a law enforcement authority into criminal charges against the employee arising out of the same incident. Once a Department Head receives notice from the employee that charges have been preferred, through an indictment or information, or that the criminal investigation has been concluded without the preferral of charges, then the time period will resume running. (Amended 09/09/03, 01/06/04, 8/25/09)

f. Any issue of non-compliance with these provisions will be considered by the hearing officer and/or Commission upon the appeal of the disciplinary action. (Amended 01/06/04)

g. In computing any time periods set forth in this Rule, Saturdays, Sundays, and City Holidays shall not be included. (Amended 01/06/04)

h. Nothing in this Rule shall prevent suspension of the employee from service without pay in appropriate circumstances. (Amended 01/06/04)

i. A copy of this Rule shall be attached to each notice of proposed disciplinary action.

(Passed 1/6/04)

Section 4. Resignation Before Appeal Decision.

The acceptance by Department Head of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges and the separation of the employee concerned will be recorded as a resignation and the proceeding will be dismissed without judgment. (Amended 7/31/07)

Section 5. Disqualification for Reappointment.

Any employee who is dismissed for cause or who resigns while not in good standing will be disqualified from taking a Civil Service examination for two years thereafter. His name will be removed from all eligible lists, unless, in the judgment of the Commission the cause of his dismissal or resignation under charges will not affect the possibility of his usefulness in some other position. (Amended 8/25/09)

Section 6. Non-Certification of Suspended Persons.

The names of persons suspended will not be certified from eligible lists during the period of suspension.

Section 7. Election to Forfeit Annual Leave.

Regular employees suspended for not more than ten (10) working days may elect to forfeit annual leave for a period equal to the suspension, or to the extent of the employee's annual leave balance, subject to the approval of the Department Head. The election provided for herein, shall work a waiver of the employee's right to appeal the disciplinary action to the Commission, and the employee shall be so advised in plain English on a suitable form upon which the election shall be made, as developed by the Human Resources Director and appended to the notice of suspension. The Department Head shall not unreasonably withhold approval of the employee's election. (Added 05/11/04, Amended 7/31/07)

Section 8. Formal Counseling.

Formal Counseling is not within the type of disciplinary action specified in Section 6.13-2 of the Charter which may be appealed to the Civil Service Commission. A formal counseling is issued by the Department Head and considered a written counseling to address employee workplace conduct. Employees receiving a formal counseling shall have the right to place responses to the formal counseling into their personnel files which shall remain in the file so long as the formal counseling to which the response relates remains in the file. Upon an employee's request, a~~Any~~ formal counseling, ~~or a written reprimand issued before 8/25/09 shall~~will be removed from an employee's personnel file ~~as soon as practicable after the expiration of~~ twenty-four (24) months ~~from~~after the date of the formal counseling, ~~is placed in their file~~ provided the employee has not received any ~~other~~ disciplinary action during that time period. ~~Any such~~ formal counseling, ~~once which qualifies to be removed from~~shall not be used against the employee's file, shall not be considered against the employee for purposes of determining progressive discipline or ~~for~~ performance evaluations, ~~as of the expiration of the twenty-four (24) month period.~~ (Added 8/25/09)(Amended 11/2/10)

Added: "issued by the Department Head and".

Deleted: "or a written reprimand issued before 8/25/09"

Added: "upon an employee's request, a"

Deleted: "as soon as practicable"

RULE ~~9~~¹⁶

Hearings

Section 1. Scheduling of Hearings

Recognizing that the prompt hearing and disposition of appeals is in the interests of affected employees and the City, and that there are often inherent financial implications therein, it is the policy of the Commission that hearings proceed as expeditiously as possible, consistent with the interests of fairness.

Section 2. Expedited Hearings in Certain Disciplinary Appeals

Hearings of appeals from termination, reduction or suspensions in excess of 15 days shall be convened within 45 days of the date the case is referred to a hearing officer unless the hearing is continued upon the request of either party as hereinafter provided. In no event may a hearing be scheduled so as to commence more than 90 days after the date aforesaid, except with leave of the Commission.

Section 3. Continuance of Appeals Hearings

- a. When either party requests a continuance, that party shall file a written motion with the hearing officer or Commission. The Motion shall be identified as the party's First Motion, Second Motion, and so forth and shall set out the grounds upon which the motion is made. Any motion shall also state that the motion is not made merely for purposes of delay. Except for good cause shown, any such motion shall be made not less than seventy-two hours prior to the scheduled time of the hearing. In the case of a motion for continuance on account of an absent witness, the moving party shall establish that it has used reasonable means to secure the attendance of the witness.
- b. Upon receipt of a motion for continuance, the hearing officer or Commission may schedule a hearing on the matter to consider the testimony and position of both parties with respect to the motion. The granting of a motion for continuance shall be within the sound discretion of the hearing officer or Commission which shall not be bound by the agreement of the parties with respect to the motion.
- c. No motion for continuance shall be denied for reasons of form without first giving the moving party the opportunity to cure any defects as to form. (Amended 8/18/04)

Section 4. The Rule as to Witnesses

Any party to Commission proceedings may invoke the Rule as to witnesses as known to the practice in the District Courts of the State of Texas, and the Commission or Hearing Officer may, on their own motion, impose such rule, the effect of which will be to exclude from the hearing room all witnesses, except the Department Head or their representative and the appellant, while other witnesses are being questioned or other testimony given. (Amended 08/30/05)

RULE 1017

Employees Seeking Public Office

No employee of the Civil Service shall seek election for a public office, as listed below, without having first resigned from his position in the Civil Service: (Amended 8/25/09)

- a. Employees can declare, file and seek elective offices that are not financially compensated, such as elected positions to college boards, school boards, school districts, hospital boards and elected offices that are necessary to party function and process. If an employee wishes to seek an elective office that is financially compensated, the employee must first resign before declaring, filing or seeking the elective office. Employees who resign to seek an elective office that is financially compensated are eligible for reinstatement following their resignation in accordance with Article VI, Section 6.10-7 of the Charter. (Amended 7/31/07)
- b. Employees are prohibited from declaring, filing or seeking municipal elective office unless the employee first resigns. Employees who resign to seek a municipal office are eligible for reinstatement following their resignation in accordance with Article VI, Section 6.10-7 of the Charter. (Amended 05/07/02, 7/31/07)
- c. Any public office in a jurisdiction which has direct or indirect contractual relations with the City and which would present a conflict of interest to the employee's position in the City. (Amended 5/27/08)

Such employee shall be eligible for reinstatement following resignation in accordance with Articles VI, Section 6.10-7 of the Charter, and these Rules. (Amended 08/07/07)

RULE 18

Unclassified Services

~~Unless otherwise provided by Council, all employees in the unclassified service shall be governed by the Charter and the Rules of the Civil Service Commission, except as provided in Article VI, Section 6.2-3 of the Charter.~~

~~Employees who hold positions funded or contracted for by state or federal grants, shall have no right to continue holding such positions when state or federal funding ceases.(Amended 7/31/07)~~

Deleted: Covered under City Charter Section 6.2-2 UNCLASSIFIED SERVICES.

RULE 11⁹
Departmental Rules

Section 1. Any Department Head shall have the right to promulgate rules and regulations regarding the operation of his department, and the conduct of the employee therein, subject to the consent and approval of the City Manager, provided that such rules do not conflict with the Civil Service Charter or the Rules promulgated thereunder. (Amended 07/11/06)

Section 2. Large departments having various sub departments may, in their rules, have rules and regulations pertaining to said sub departments in addition to general rules and regulations regarding the department. (Amended 7/31/07)

Section 3. The Human Resources Director may promulgate, rules, regulations and policies and procedures, that apply to all or some city departments, as may be specified by the Director, regarding any requirements applicable to the employees of such departments, subject to the consent and approval of the City Manager, provided that such rules, regulations, or policies and procedures do not conflict with the Civil Service Charter or the Rules promulgated hereunder.

Added: Section for clarification to promulgate rules, regulations, and policies and procedures.

Section 4³. Any Department Head may, as provided in the Charter, suspend, discharge or demote any employee for insubordination, for failure to comply with departmental rules and regulations, for failure to comply with the Rules of the Commission or for failure to obey any lawful order of a superior officer. (Amended 07/11/06)

Renumbered to 4.

Section 5. The Human Resources Director is authorized to maintain a comprehensive manual of safety procedures and driver safety standards for all employees. Each employee shall receive a link to a copy of the manual.

Added: Portions of Section 1 from Rule 28 as new Section 5 and added language for clarification.

RULE 120

Lay-offs, Job Rights, Reinstatement

Section 1. Lay-offs.

Corrected lower case “o” to upper case “O” in Offs.

a. When a lay-off of employees is necessary in accordance with Article VI, 6.10-1 of the Charter, notice of such proposed lay-off will be provided to the Human Resources Director immediately. The Human Resources Director will certify to the appropriate Department Head the names of the employees to be laid off, and

will coordinate all procedures to effect the lay-off. (Amended 7/31/07)

b. In certifying the names of the employees to be laid off, in the case of a tie in the amount of seniority of regular, classified employees in the affected positions, the Human Resources Director will certify for lay-off the employees with the lowest regularly scheduled efficiency ratings based on an average of the last three rating periods. If a tie still exists, the Human Resources Director will certify for lay-off the employees with the most recent date of regular appointment to the current class. If a tie still exists, the Human Resources Director will certify for lay-off by using a system of drawing by lot. (Amended 9/8/87 and 6/3/97, 7/31/07)

c. At least thirty calendar days prior to the actual lay-off date, the Human Resources Director will freeze the filling of all City vacancies in the same occupational group at or below the class grade of the affected employees. No such vacancy will be filled without first considering the eligibility of affected employees for the vacant positions. The Human Resources Director will attempt to place affected employees in such vacancies in accordance with Section 2 of this Rule within the thirty day period. This procedure will not affect vacancies which occur after the thirty days.

d. The Human Resources Director will counsel all affected employees to insure that all such employees are aware of their rights and obligations during the lay-off.

(Section 1.e eliminated 7/31/07)

Section 2. Job Rights.

A regular employee who is to be removed from a position as the result of abolishment or lay-off, has the right, within the order of certification, to be appointed to a vacant position. (Amended 7/31/07)

One opportunity to be appointed to a vacant position at or below the employee's class grade at the time of removal will be offered to each employee to be laid off in the order of the employee's seniority with the City. In the event of multiple lay-offs, the Human Resources Director will ensure that the most senior employees receive the greatest rights hereunder.

Any budgeted and authorized vacancy which exists in the Civil Service for which the person meets the minimum qualification requirements as set forth in the job classification that is at or below the current position held at the time of lay off will be evaluated for possible placement. The Human Resources director may order a qualifying examination be given to determine if the individual possesses all the minimum qualifications.

The refusal of an employee to accept an offer to fill a vacancy made under this section will result in the employee being laid off and placed on a reinstatement list.

If no vacancy exists in any of the above categories, the employee will have the right to displace a person in a position in a lower class in the same class series in which the employee is currently serving. If no such position exists, then the employee will have the right to displace a person in a class series in

which the employee to be laid off has previously served. Displacement rights will be given to employees in order of their seniority. Persons who are displaced as a result of the above procedure shall then have the same right to displace persons serving in positions as outlined above. No person may be displaced in any action if the person holding the position has greater seniority than the employee claiming the right to displace.

If a person accepts a position, either through filling a vacancy or displacement, at a lower grade, the person, if otherwise qualified, may take promotional examinations for any class above the new grade in which he is now placed. No person who accepts appointment to a vacant position or displaces another person under this section shall be placed on a reinstatement list for the position from which the person was removed. (Amended 7/31/07)

Section 3. Reinstatement From Lay-Off.

Individuals on reinstatement lists as a result of a lay-off who are interested in reinstatement to a specific position in any City department must notify the Human Resources Director in writing of such interest. If the Human Resources Director has already certified the names to a vacancy when such notification arrives, that certification will not be canceled, but the individual will be contacted prior to certifying names for future vacancies in which the individual has expressed an interest. If an examination announcement for the vacancy has been posted, the individual must notify the Human Resources Director of his interest in the position no later than the last day of the filing period for the examination. (Amended 8/25/09)

The Human Resources Director will determine whether or not the position in question is of a similar nature, evaluate the individual's qualifications for the position, and determine whether or not the individual must take a qualifying examination or be determined eligible based on his possession of the minimum qualifications and similarity of previous job duties. (Amended 8/3/04, 7/31/07, 8/25/09)

Section 47. Reinstatement from Military Leave

Any employee granted leave of absence for the purpose of entering the armed forces of the United States, including the Coast Guard, or the state service as a member of the Texas National Guard or Texas State Guard or as a member of any reserve components of the armed forces of the United States shall be reinstated to his position, if the position has not been abolished and if the employee has all the qualifications requisite to an original appointment to the position, as determined by the Commission, and in accordance with Chapter 613, Texas Government Code. (Amended 2/07/06, 8/25/09)

Added: Moved Section 7, from Rule 13 in its entirety as new Section 4.

Section 58. Reinstatement Following Resignation.

a. Requisites for Reinstatement for Public Safety Employees

Those former uniformed employees requesting reinstatement to the Fire Department must take and pass the medical examination and a physical agility test prior to the reinstatement to actual duty. One additional attempt at the physical agility test will be permitted after a one-month waiting period for persons failing the agility test on the first attempt. Additional attempts will not be offered for any of the other components. Those former uniformed employees requesting reinstatement to the Police Department must take all applicable tests in accordance with Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) standards, to include the medical and psychological examinations, and physical agility test prior to the reinstatement to actual duty. The Chief of Police may require a polygraph examination. (Amended 2/07/06, 8/21/07, 6/1/10)

b. Reinstatement to Full or Part Time Positions for Former Full Time Employees

Full time employees may request be reinstated to full or part time classifications that they have previously held within 18 months of their date of separation. Such reinstatement will depend upon the availability of a vacant position. (Amended 2/07/06, 11/2/10)

c. Approval for Placement on Reinstatement List After 18 Months

The City Manager or designee, may approve a request for reinstatement to full or part time position in a classification previously held after more than 18 months, but no more than 30 months from the date of separation, in cases where professional training or specialized skill is required, where the person desiring reinstatement has been continuously engaged either in study to benefit himself for his duties, or was in an occupation or position tending to increase his value in the position, or where the person demonstrates that he was unable to apply for reinstatement within the 18 month period due to an extraordinary or unusual hardship and reinstatement will not have a detrimental effect on the City. For the purpose of this section, substantially similar or revised job classifications may be used in determining such reinstatement after 18 months. (Amended 8/11/87, 3/17/92, 9/21/93, 2/07/06, 8/21/07, 8/25/09, 11/2/10)

Added: Moved Section 8 (a)(b)(c), from Rule 13 in its entirety as new Section 5.

Section 6. Reinstatement of Regular Part-Time Employee

Regular part-time employees who resign and request reinstatement, and who are approved for reinstatement, shall be placed on an eligible list only to regular part-time positions in the same class and grade from which they resigned. (Amended 8/21/07)

Added: Moved Section 6, from Rule 26 in its entirety as new Section 6.

Section 7. Layoff of Regular Part-Time Employee

Regular part-time employees who are laid off in accordance with Article 6.10-11 shall have their names placed on a reinstatement list only to part time positions. In all other respects the provisions of Rule 12~~29~~ will apply. (Amended 8/21/07) (NOTE: Rule number will be identified once approved)

Added: Moved Section 7 from Rule 26 in its entirety as new Section 7.

RULE 21
Ex Parte Communications

~~Commissioners or hearing officers, may not initiate, permit, or consider ex parte communications or other communications to be made outside the presence of the parties, concerning the merits of a pending complaint or appeal. Pending is defined as a complaint or appeal that Commissioners or Hearing Officers know has been filed or should reasonably foresee will be filed. Commissioners or hearing officers shall not participate in rendering the decision in a case where they have participated in the case in an advocacy role. This Rule does not prohibit either the Commission or hearing officer from communicating with the legal advisor to the Commission. (Amended 7/13/04)~~

Deleted: Moved to Rule 1 in its entirety as new Section 14.

RULE 22

Documentation to Employee's File

~~In order for memorandums, formal counseling, or other documentation of an employee's performance, to be made part of the employee's personnel file, such documentation must be received by the Human Resources Department no later than 120 days following the issue of such documentation. (Passed 12/11/84) (Amended 10/03/95, 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

RULE ~~12~~3

Emergency Response by City Employees~~Residency~~

~~All City employees must reside within the United States of America as a condition of employment. Additionally, Any~~all City employees, ~~hired after the effective date of this Rule,~~ whose jobs require that they respond to a civil emergency, must be able to respond to the emergency within a one hour ~~thirty minute~~-time limit. (Passed 9/8/87) (Amended 8/31/04, 7/31/07, 8/25/09)

Title changed from “Residency” to “Emergency Response by City Employees”

Deleted: “All City Employees must reside within the United States of America as a condition of employment.”

Deleted: “Additionally all” and added “any.”

Deleted: “hired after the effective date of this Rule”

Added: “one hour” and deleted “thirty minute.”

RULE 124
Grievances Procedure

Deleted: “Procedure” from title.

Added “s” to “Grievance” in title.

An employee has the right to file and process a grievance as provided in this Rule. ~~All regular employees have the right to voice grievances and to have them considered fairly. A grievance is any order which is believed to violate the rights granted employees by the City Charter (Charter, Section 6.13-4) excluding all disciplinary matters, which shall continue to be heard exclusively by the Commission.~~ (Amended 7/31/07)

Added language for clarification.

The Human Resources Department will counsel and advise employees and supervisors in utilizing this grievance procedure by interpreting City policies and procedures, lending objectivity to the process, preventing delays in the process, and resolving conflicts between employees and supervisors, if possible. Complaints concerning possible sexual harassment are to be investigated in accordance with the City's Sexual Harassment Policy. Complaints involving discrimination may be resolved under a separate grievance procedure available from the Human Resources Department.

Any written grievance shall contain a precise statement of the complaint, including any departmental or Civil Service Rule which is alleged to be violated, a statement of the facts and parties involved and the specific remedy which the employee is seeking. (Amended 7/31/07)

Grievances shall proceed as follows:

- (1) The employee should discuss the problem with the immediate supervisor within ten working days of the incident giving rise to this grievance. The supervisor shall then gather all the facts, analyze the facts and make a decision. He should then notify the employee verbally, not later than five working days following the initial discussion, of the supervisor's decision.
- (2) If the employee is dissatisfied with the supervisor's response, he should submit the grievance in writing on an appropriate form to be provided by the Human Resources Department within five working days to the next level supervisor. - That supervisor will then review the grievance, have the immediate supervisor complete the immediate supervisor's statement, complete the next level supervisor's statement on the form, and notify the employee of his decision within five working days. The next level supervisor shall also return the completed form to the employee and send a copy of it to the Department Head. (Amended 8/25/09)
- (3) If the employee is still dissatisfied with the response to his grievance, he shall submit the grievance to the Department Head within ten working days. The Department Head or designated manager shall investigate the grievance and schedule a meeting with the employee within five working days to discuss the grievance. After the meeting, the Department Head has ten working days to notify the employee and the supervisor of his decision. The Department Head should complete the appropriate statement on the grievance form, return it to the employee and forward a copy to the Human Resources Department. (Amended 8/25/09)
- (4) If the employee is still dissatisfied with the Department Head's decision he should file the grievance form with the Human Resources Department within ten working days of receiving the decision from the Department Head. The Human Resources Director or assignee will then gather all

facts, review policies and procedures, and meet with the employee and people in the department if necessary. The Human Resources Director shall ordinarily complete his findings and ~~determinations~~~~recommendations~~ within thirty working days after the receipt of the grievance. If the ~~determination~~~~recommendation~~ cannot be completed within the thirty days, the Human Resources Director may notify the grievant in writing of an extension of fifteen working days. The Human Resources Director will then communicate findings and ~~determinations~~~~recommendations~~ on the grievance, by completing the form and returning it to the employee, and forwarding a copy to the Department Head. (Amended 8/25/09)

(5) If ~~the~~ a classified employee is not satisfied with the findings and ~~determinations~~~~recommendations~~, he may appeal to the Civil Service Commission within ten working days from the date the Human Resources Director's ~~determination~~~~recommendation~~ is e-mailed or delivered ~~in person~~ to the grievant. The Secretary of the Civil Service Commission will place the grievance on the next available agenda for the Civil Service Commission.

Deleted “recommendations” and added “determinations”

Deleted “the” and added “a classified”

Added: “e-” to mailed.

Deleted: “in person”

This grievance procedure applies only to those employees who are not covered under collective bargaining agreements. Employees covered under such agreements shall use the grievance procedures specified by the terms of their contract. This grievance procedure is not in addition to the grievance procedure in the Collective Bargaining Agreements.

The time limits set forth herein are jurisdictional and may be extended by mutual agreement of the parties at any time. Failure by the grievant to comply with the prescribed time limits or the mutually agreed extensions, except for good cause, will result in denial of further processing of the grievance. Failure by management to comply with its prescribed time limits or the mutually agreed extensions will allow the grievant to avail himself of the next higher level in the process. The burden of proof in a non-disciplinary grievance is upon the employee by a preponderance of the evidence. (Passed 02/23/88) (Amended 01/9/96, 8/25/09)

Added: “except for good cause”

Global change “recommendation” to “determination”.

Added language for clarification on burden of proof in a non-disciplinary grievance.

RULE 25

Driver Safety Standards

Section 1. Applicability:

~~This Rule is adopted by the Commission for all City departments. (Amended 7/31/07, 8/25/09)~~

Section 2. Applicants:

~~A Motor Vehicle Record check will be required of all original and promotional applicants certified to positions which require driving a vehicle on public thoroughfares as a duty.~~

~~Applicants will be rejected and removed from the eligible list, subject to Civil Service Commission appeal, if the Motor Vehicle Record reveals they:~~

- ~~a. do not have a current valid driver's license issued by a state of the United States;~~
- ~~b. have had three moving violations in the preceding 18 months or one DWI in the preceding 24-month period (on or off the job) which resulted in placement or acceptance into a pre-trial diversion program; court supervised probation or conviction;~~
- ~~c. have had three accidents for which they received a ticket and were placed or accepted into a pre-trial diversion program, court supervised probation or convicted within the preceding 36-month period (on or off the job), or two or more within the last 12 months;~~
- ~~d. any combination of b and c;~~
- ~~e. have an outstanding Department of Public Safety and/or Municipal Court Arrest Warrant;~~
- ~~f. have any driving record which is not indicative of a responsible driver as determined by the Human Resources Department;~~
- ~~g. All applicants for uniformed Fire and Police, and other departments which require driving must comply with the higher standards determined to be necessary by the department. City employees must have an unexpired certificate of defensive driving before driving a city vehicle. (Amended 07/11/06; 8/25/09)~~

~~Applicants rejected for any of the above reasons may reapply as soon as they meet the standards or apply for positions not requiring driving duties.~~

Section 3. Current Employees:

~~Annual Motor Vehicle Record checks will be made on all current employees with driving duties. Employees may be subject to disciplinary action, including termination, if the Motor Vehicle Record reveals any of the reasons listed in Section 2 above for disqualification of applicants, exists. Current City employees with driving duties must immediately inform their supervisors if convicted, placed on probation, or placed or accepted into a pre-trial diversion program for any moving traffic violation, have an outstanding traffic warrant, or if there is a change in the status of the employee's driver's license. Failure to immediately notify the supervisor may result in disciplinary action including termination. All City employees must attend a defensive driving class within 30 days of being assigned to driving duties and must repeat such training every three years. (Amended 1/5/88, 05/26/92, 6/1/10)~~

Deleted: An administrative process not governed by charter, should be addressed in policy. Administrative Policy created.

RULE 26

Regular Part-Time Employees

Section 1. Definition:

~~A regular part-time employee is an employee who is regularly scheduled to work for no more than 29 hours per week, or for no more than 40 hours per week in a department with a 24-hour schedule. (Amended 8/21/07)~~

~~a. Regular part-time employees may be regularly scheduled for hours which are predetermined and set by the department in advance, or (Amended 8/21/07)~~

~~b. Regular part-time employees may be on-call employees who are called to work when the department has special events, extra work or non-regularly scheduled recurring work which is not being performed by regular full-time employees. (Amended 8/21/07) Seasonal employees who work only part of the year are considered temporary employees and are not eligible for regular part-time status.~~

Section 2. Promotional Exams:

~~Part-time employees are eligible to take promotional examinations for full or part-time positions after successful completion of original probation in a regular part-time position. Seniority credits will be prorated based on full-time service and in the same manner as prescribed in Rule 9, Section 2b, for promotional examinations. Efficiency credits shall be awarded in the same manner as prescribed in Rule 9, Section 2c. (Amended 8/21/07, 8/25/09)~~

Section 3. Transfers:

~~Regular part-time employees may request transfer to another regular part-time position of the same class and grade in a different department in accordance with Rule 5, Section 3, and within the order of certification. Regular part-time employees may not receive a transfer to regular full-time positions.~~

Section 4. Part-time to Full-time Status:

~~Part-time employees who wish to be placed on a transfer list within the Certification Process for full-time employment in the same classification, as provided in Section 6.5-1 of the Charter shall submit a written request to the Human Resources Director. Names will be placed on such list in the order in which received. (Amended 8/21/07)~~

Section 5. Full-time to Part-time Status:

~~a. A regular full-time employee may request a reduction in status from full to part-time. Such request must be in writing and will state the reason(s) for which the employee is requesting reduction to part-time status. Requests will be granted on a case-by-case basis and in as timely a manner as practicable, subject to the operating needs of the City. Such requests shall be forwarded directly to the Human Resources Director who shall approve or deny. (Amended 8/25/09)~~

~~b. Full-time employees who have been granted part-time status may seek a return to full-time status as described in Section 4 of this Rule. (Amended 8/25/09)~~

~~c. A status change from full to part-time will not affect the employee's seniority for pay and benefit~~

~~accrual purposes.~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~Section 6. Reinstatements:~~

~~Regular part-time employees who resign and request reinstatement, and who are approved for reinstatement, shall be placed on an eligible list only to regular part-time positions in the same class and grade from which they resigned. (Amended 8/21/07)~~

Deleted: Moved to Rule 20 in its entirety as new Section 6.

~~Section 7. Layoff:~~

~~Regular part-time employees who are laid off in accordance with Article 6.10-11 shall have their names placed on a reinstatement list only to part-time positions. In all other respects the provisions of Rule 20 will apply. (Amended 8/21/07)~~

Deleted: Moved to Rule 20 in its entirety as new Section 7.

~~Section 8. Temporary Appointments/Provisional Appointments:~~

~~Regular part-time employees may receive temporary promotions or provisional appointments to full-time positions. (Amended 9/21/93 and 8/21/07)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

RULE 27
Non Discrimination

~~Section 1. The City shall administer the Civil Service Rules and charter provisions in a manner consistent with federal, state and local laws concerning equal employment opportunity and affirmative action. (Amended 7/31/07)~~

Deleted: Moved Section 1 to Rule 1 as new Section 15 with the deletion of “and affirmatitve action”.

~~Section 2. Responsibility.~~

~~The Human Resources Director shall develop and maintain an Affirmative Action Plan subject to review by the Civil Service Commission. Annual labor market and workforce analyses and evaluation shall be made by the Human Resources Department. (Passed 06/04/96)~~

Deleted: Not governed by Charter. The Affirmative Action Plan is submitted to Federal Government on September 30th of every even numbered year.

RULE 28

Safety

Section 1. Safety Procedures.

~~The City shall maintain a comprehensive manual of safety procedures for all employees. Each employee shall receive a copy of the manual. Changes in the contents of the manual will become final upon approval of the Director of OMB and the Human Resources Director. Each department may also promulgate safety procedures specific to their own operations, provided they do not conflict with the general safety procedures.(Amended 7/31/07)~~

Section 2. Compliance.

~~All employees shall comply with all procedures in the Safety Manual applicable to their job, and shall participate in safety training as directed by their supervisor or Department Head. (Added 11/19/96, Amended 7/31/07)~~

Deleted: Moved portions of Section 1 to Rule 19 as new Section 5. Remaining portions an administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

Added: “Appeal Regarding” and “Denial or Revocation” to title.

Section 1. Statement of Policy:

~~Regular full time members of the classified services shall be permitted to work part time for other employers subject to the provisions of this Rule. Regular part time employees, while covered by this rule, are not subject to the maximum allowable hours in Section 2. It is the policy of the Commission that full time employees recognize that their primary duties are to the City of El Paso. Employees are subject to call at any time for emergencies, special assignments, overtime, and the like, and the obligations of outside employment are always subordinate to the needs of the City Of El Paso. Regular part time employees are expected to work all scheduled shifts. (Amended 9/27/05, 7/31/07, 11/2/10)~~

Section 2. Maximum Allowable Hours; Conditions Disqualifying Applicants:

~~Requests for outside employment shall be granted by Department Heads; not to exceed twenty five (25) hours per week, except in the following circumstances:~~

- ~~a. Where it appears from the applicant’s sick leave record or other evidence that outside employment would measurably impair the applicant’s ability to discharge official duties and responsibilities with the City;~~
- ~~b. Where outside employment, or the place where it is performed, would likely bring either the City or the applicant into disfavor with the public, involve the employee in violation of the Rules and Regulations of the Commission or the employee’s department, or present the employee with an actual or potential conflict of interest respecting city employment;~~
- ~~c. Where the employment, or the place where it is to be performed, are such as to measurably impair the employee’s efficiency, capability, or availability as an employee of the City;~~
- ~~d. Where the outside employment requires the applicant to appear in the official uniform of the applicant’s City employment where such practice would violate a rule of the applicant’s department or where the outside employment would involve the service of civil process;~~
- ~~e. Where the outside employment of a public safety employee would involve the operation of, or employment in, an establishment where the principle business is the sale of intoxicating beverages;~~
- ~~f. Where the outside employment could affect their ability to make unbiased decisions or recommendations in the duties of their job with the City; or (Added 9/27/05)~~
- ~~g. Where the outside employment could compromise their independent judgment regarding recommendations or choice of vendors or services that are provided the City of El Paso. (Added 9/27/05, 7/31/07)~~

Section 3. Form of Application; Procedure for Approval:

~~An applicant must submit a request for permission to work at outside employment to the Department Head for approval. This request must be submitted on appropriate forms as provided by the Department of Human Resources and must include, inter alia, the specific type of employment. A Department Head may place reasonable limitations or conditions on the performance of any outside employment. Determination of limitations on outside employment will be based upon the best interest of the City in furthering professionalism, protecting the reputation of the employee and City and ensuring the City receives full and faithful service in return for its expenditure of resources. If the Department Head believes an employment request is inappropriate and does not meet the criteria established by this Rule, he must submit the request to a Deputy City Manager or the City Manager and obtain his concurrence prior to disapproving the request. (Amended 9/27/05, 7/31/07, 8/25/09)~~

~~Section 4. Duration; Subsequent Applications; Employee's Duties:~~

~~Applications that have been approved by the Department Head, or the Commission as hereinafter provided, will be valid for a period not to exceed two (2) years from the date of approval, and only for the specific type of employment approved. An original application must be submitted before an employee may change the type of employment for which he has been approved. (Amended 9/27/05, 7/31/07, 8/25/09)~~

~~Section 5. Duties of Department Head; Revocation of Approval:~~

~~Each Department Head shall periodically review outside employment within the department to ensure compliance with this Rule. It is the duty of each Department Head to revoke an employee's outside employment approval in the event the employee fails to comply with the provisions of this Rule, fails to conform to the conditions of qualifications as set forth in Sec. 2 (a-g) of this Section, or receives an overall rating of less than "Meets Performance Standards" on any regularly scheduled Performance Evaluation Report, provided further that a Department Head may give an employee notice and reasonable opportunity to cure their noncompliance or other deficiency prior to revocation. (Amended 9/27/05, 7/31/07, 8/25/09)~~

Deleted: Sections (1)(2)(3)(4)(5) An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.

~~Section 6. Appeal; Burden of Proof; Miscellaneous Provisions:~~

An employee whose original or subsequent application for outside employment has been denied by the Department Head or whose approval has been revoked, may appeal the denial or revocation to the Commission within ten (10) working days of his notification thereof. The Secretary will promptly docket the appeal on the Commission's agenda. Upon the hearing of the appeal, the Department Head and the employee will state their respective positions in writing to the Commission which shall consider the same, receiving testimony as it deems appropriate. The Commission will then determine the appeal. The burden of proof in an appeal from a denial of an original or subsequent application shall be upon the Department Head by a preponderance of the evidence; an appeal from a revocation of approval shall be sustained in the absence of substantial evidence. An employee whose appeal from a revocation of outside employment has been denied shall be ineligible to reapply for outside employment for a period of six months from the date of such denial. Revocation of approval shall not be considered disciplinary action. Copies of all outside employment documents will be kept on file in the employee's department. (Amended 9/27/05, 7/31/07, 8/25/09)

Deleted: Title of Section 6.

RULE 30
Working Out of Class

Section 1. When Employees May be Worked out of Class:

~~a. No classified employee may be worked out of their normal classification except in conformity with this Rule. Employees may be worked out of class for such limited periods of time, not to exceed one (1) year. (Amended 8/25/09)~~

~~b. Employees may be worked out of classification for any of the following reasons or purposes: (1) to work in a position because it is vacant or because the incumbent is on leave or for which a department has a temporary need, (2) for developmental assignment, or (3) because of a catastrophic event.~~

~~c. With the agreement of the employee, a Department Head may work a regular employee out of class for developmental assignments. In order to be considered for a developmental assignment, an employee must have received an overall rating of "meets performance standards" or higher on their last scheduled performance evaluation report and may not have been previously granted developmental assignments that are substantially similar in nature. Additionally, an employee must show that he would meet the minimum qualifications for the position within one (1) year from the date of the request. Request for continuations or extensions beyond one (1) year will not be approved. (Amended 7/31/07, 8/25/09)~~

~~d. Employees may be worked out of class by the City Manager during the course of a catastrophic event or a period of recovery following the occurrence of such an event. In these circumstances, employees required to work out of class shall not be eligible to receive additional compensation or credit as would otherwise be extended under this Rule.~~

Section 2. Approval Process by Department Head:

~~When it is expected or anticipated or when a significant potential exists that an employee will work out of class for 15 or more consecutive days and for all developmental assignments, a Department Head must complete the appropriate form to work an employee out of classification, stating the reasons therefore, the date the necessity arose or is reasonably anticipated to arise, the likely duration of the necessity, and the difference in compensation, if any, between the employee's current classification and that to which the new assignment relates. In cases arising out of developmental assignments, only the duration of the length of the assignment need be set forth, together with evidence of the employee's consent. The form shall be submitted to the Office of the City Manager for the approval of the City Manager or designee. (Amended 8/25/09)~~

Section 3. Compensation and Credit:

~~Except as otherwise provided in this Rule, an employee will be credited for each day of out of classification work for the purpose of calculating experience toward the minimum qualifications for a promotional examination related to the position. At the end of each calendar month, any employee who does not have a pending or approved working out of class application and who has performed one or more days of out of classification work during that month shall, before the 10th day of the following month, fill out a request to receive credit for such work and submit the request to their Department Head. If the Department Head fails to act upon the request within five (5) working days, the credit shall be automatically granted. If the Department Head denies the request, the employee shall be informed, and may appeal as provided in Section 5 of this Rule. No more than 30 total days of credit for out of classification work may be granted on an annual basis based on the calendar year to an employee pursuant to this self reporting system. (Amended 8/25/09)~~

~~An employee who is authorized and assigned to work out of class for 15 or more consecutive days shall receive compensation retroactively, at the minimum salary for the out of class position, provided further, that in no event shall the adjustment in pay be less than five (5) percent higher than the employee's regular rate of pay. This additional compensation shall not affect the employee's eligibility for increases in accordance with normal pay practices, nor shall the additional compensation herein provided extend beyond the period for which the employee works out of class. (Amended 7/31/07, 8/25/09)~~

Section 4. Supervisory Duties:

~~Provided that there is no employee within the same department eligible for promotion or temporary promotion under the provisions of Rule 11, Sec. 10, an employee may be assigned temporary supervisory duties pursuant to a developmental assignment as provided in Sec. 1 of this Rule, otherwise, an employee may not be required to perform supervisory duties not contained within the job description he was working before being worked out of class.~~

Section 5. Appeals:

~~An employee may appeal to the City Manager any perceived violation of this Rule within 10 days after the employee knew or should have known of the purported violation. If the matter remains unresolved to the employee's satisfaction, the employee may appeal to the Commission not later than five (5) days after the denial of the City Manager, or 25 calendar days after the initial appeal, whichever is later. (Amended 8/25/09)~~

Section 6. Definitions:

~~As used herein, the following terms, in their various configurations, are defined. All terms not defined shall have their ordinary meaning.~~

- ~~(1) — Working Out of Class(WOC) The temporary assignment of an employee to daily perform duties of a significant and distinct nature allocated to a higher graded job class other than work performed in response to a catastrophic event or as defined in Section 2.2c of the Classification and Compensation Ordinance 8064. (Amended 8/25/09)~~
- ~~(2) — Days Unless the context requires otherwise, days that an employee actually works.~~
- ~~(3) — Department Head The department director. (Amended 8/25/09)~~
- ~~(4) — Catastrophic Event The occurrence of a sudden emergency or other incident affecting public health, safety or welfare in the City which necessitates the immediate use or mobilization of a large number of employees to respond to and deal with the incident. (Added 8/23/05)~~
- ~~(5) — Scheduled Evaluation For purposes of this rule probationary evaluations will be considered scheduled. (Added 8/25/09)~~

Deleted: An administrative process not governed by Charter, should be addressed in policy. Administrative Policy created.